



**The Comptroller General  
of the United States**

Washington, D.C. 20548

## **Decision**

**Matter of:** Tek-Lite, Inc.  
**File:** B-230298.5  
**Date:** June 28, 1988

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### **DIGEST**

Addition of royalty fee evaluation factor to bids is not inconsistent with Federal Acquisition Regulation (FAR) general policy proscription that agencies shall provide for financial development incentives and sharing of savings on value engineering change proposals (VECPs) with contractors; royalty fee evaluation factor is a method of funding the contractor's share of VECP savings, a VECP implementing procedure allowed by the FAR.

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### **DECISION**

Tek-Lite protests a solicitation clause providing for addition of an evaluation factor to bids under invitation for bids (IFB) No. DLA400-88-B-1652, issued by the Defense Logistics Agency (DLA) for ground obstruction marker lights. We dismiss the protest.

The IFB invited bids based on a standard military specification or, alternatively, on a value engineering change proposal (VECP), which modifies the standard specification and was developed by Tek-Lite under an earlier contract. Since Tek-Lite receives a \$5.71 royalty fee for each item furnished to the government based on the VECP, the RFP provided, under clause M24, for the addition of a \$5.71 evaluation factor to bids based on the VECP.

Tek-Lite argues that the proposed addition of the royalty fee as an evaluation factor is inconsistent with the Federal Acquisition Regulation (FAR) policy that agencies shall provide substantial financial incentives to encourage submission of VECPs, and also shall provide contractors a fair share of the savings on accepted VECPs. See FAR §§ 48.102(a) and (b) (FAC 84-12). The protester asserts that clause M24 eliminates all or part of the VECP royalties for a contractor, such as itself which developed the VECP, and in so doing violates the FAR financial incentive policy.

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We find nothing in the agency's use of the evaluation factor which is inconsistent with the FAR. While the financial incentive to potential VECP developers may be lessened by use of the evaluation factor (since the firm would have to lower its bid price to offset the factor), nothing in the FAR requires any specific incentive or precludes the use of the factor. Indeed, the FAR specifically reserves to agencies the right to establish procedures for funding and payment of the contractor's share of VECP savings, FAR § 48.102(g), and the agency's use of the evaluation factor here is simply the method selected by DLA for this purpose.

Moreover, we have specifically held that use of the VECP royalty fee evaluation factor is proper. Tek-Lite, Inc., B-227843.2, Oct. 2, 1987, 87-2 CPD ¶ 324. The protester's continued disagreement with the use of the VECP evaluation factor does not change our conclusion. Administration of the VECP program is the agency's responsibility and, as we stated in our prior decision, since our bid protest function does not encompass such policy decisions, we will not object to agency actions which, as here, are consistent with statutory, regulatory, and other legal requirements. Id.

The protest is dismissed.

*Ronald Berger*

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